THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 24716 of 2006

Dated: 13.12.2006

Between:

B. Prabhakara Rao, S/o Lakshmana Rao, aged 43 years, Occ: Driver, E.No.401727, R/o D.No.25/40/6, 5th Block, R.E. Krishna Murthy Street, Dhone, Kurnool District.

..... PETITIONER

AND

The Depot Manager, A.P.S.R.T.C., Dhone Depot, Dhone, Kurnool District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 24716 of 2006

Order:

Assailing the award dated 26.07.2003, passed by the Labour Court, Anantapur, in I.D. No. 268 of 2000, and the consequential notification issued by the Government in G.O. Rt. No. 1665, dated 27.08.2003, the petitioner filed the present writ petition.

The petitioner was appointed as Driver in the 1st respondent-APSRTC on 16.02.1989. He was issued a charge sheet dated 24.12.1997 alleging that the bus driven by him met with an accident on 03.12.1997, for which he submitted his explanation denying the charges. After conducting a regular enquiry and considering the explanation submitted by the petitioner, respondent No.1-Depot Manager issued order-cum-show cause notice dated 01.06.1998 ordering to defer annual increment of the petitioner for a period of two years with cumulative effect and further calling upon the petitioner to show cause as to why the suspension period shall not be treated as not on duty. Assailing the said order, the petitioner preferred appeal before the Deputy Chief Traffic Manager, which was rejected. Aggrieved thereby, the petitioner sought conciliation, and the Government referred the following issue for reference to the Labour Court.

"Whether the action of the Depot Manager, APSRTC, Dhone in imposing the punishment of deferment of annual grade increment with cumulative effect for a period of two years and besides treated the period of suspension is not on duty for the purpose of leave and wages on Sri K. Prabhakara Rao, Driver E.401727 is justified?

The Labour Court registered the above reference as I.D. No. 268 of 2000, and by reason of the award impugned in the writ petition, held

that the 1st respondent-Depot Manager was justified in imposing the punishment of deferment of annual increment for a period of two years with cumulative effect and treating the suspension period as not on duty.

The learned counsel for the petitioner submitted that there is no rashness or negligence on the part of the petitioner and the accident occurred due to rash and negligent driving of the Auto by its driver and due to failure of breakes of the bus. He further submits that the Labour Court, without appreciating the said facts, erred in upholding the punishment imposed against the petitioner. He, thus, prays to allow the writ petition and set aside the award of the Labour Court.

The learned Standing Counsel for the 1st respondent-Corporation supported the impugned award stating that there is no infirmity or illegality warranting interference of this Court. Hence, he prays to dismiss the writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for respondent-Corporation.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

The petitioner, as can be seen from the award, did not allege any procedural irregularity in the conduct of the enquiry. In the departmental enquiry, the Enquiry Officer, on consideration of the statements and

evidence of the petitioner, passengers and officials of the APSRTC, held that the charges leveled against the petitioner were proved. The disciplinary authority, considering the nature of the proved charges, imposed punishment of deferment of annual increment for a period of two years with cumulative effect and treating the suspension period as not on duty. The Labour Court, on re-appreciation of the entire material on record, disbelieved the version of the petitioner that the accident occurred due to failure of brakes of the bus, and found that the petitioner was guilty of rash and negligent driving of the bus. Therefore, the Labour Court, while observing that the punishment imposed by the 1st respondent-Depot Manager against the petitioner is justified, confirmed the same, and no interference is called for therewith, more so having regard to the judgment of the apex Court in ***Regional Manager, Rajasthan SRTC v. Sohan Lal***[1], wherein it was held that it is not within the normal jurisdiction of the superior courts to interfere with the quantum of sentence imposed by the disciplinary authority, unless it is shown that the sentence imposed is wholly disproportionate to the misconduct proved. The petitioner has not made out any ground to show that the punishment imposed by the disciplinary authority, as upheld by the Labour Court, is disproportionate to the proved misconduct.

The award passed by the Labour Court is a discretionary one and such an order cannot be interfered with by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India, and more so when the petitioner failed to point out any illegality, infirmity or perversity committed by the Labour Court in passing the impugned award, in exercise of its discretionary power.

For the reasons, there is no merit in the writ petition and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date: 13.12.2006
Nsr/Sj

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[1] (2004) 8 SCC 218